

**REMARKS**

This paper is being submitted in response to the Office Action mailed in the application on June 16, 2004. Claims 1-24 are pending. Claims 1, 9 and 17 have been amended.

A Petition For Extension Of Time for extending the due date for responding to the Office Action by one month with authorization to charge our deposit account No. 03-3415 for the fee payment for the extension (\$110) is being filed with this Amendment. Authorization is granted to charge our deposit account for any additional fees necessary for entry of this Amendment.

The Examiner has acknowledged applicant's claim for foreign priority under 35 U.S.C. § 119, but previously indicated that a certified copy of such application had not yet been received (Office Action of November 24, 2003). A letter enclosing a certified copy of the priority document, Japanese Patent Application: Hei 11-077369 (filed March 23, 1999), was mailed on November 10, 2003 with mail certification. Entry of applicant's claim for priority and acknowledgement of receipt of the priority document is requested.

The Examiner has rejected applicant's claims 1-6, 9-14 and 17-22 under 35 U.S.C. § 102(e) as being anticipated by Fellegara et al. (U.S. Patent No. 6,441,854). The Examiner has rejected claims 7, 15 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Fellegara et al., and has rejected claims 8, 16 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Fellegara et al. in view of Uehara (U.S. Patent No. 5,481,303). The Examiner's rejections are respectfully traversed.

The Examiner has argued in response to applicant's previous arguments that the Fellegara et al. patent teaches an apparatus that varies processing of a working image based on the type of image capture mode selected, and that each image capture mode has a different

means for storage (col. 10, line 37 to col. 11, line 42). According to the Examiner, since processing is carried out after the image is written into memory, it is inherent that Fellegara et al. teach the claimed limitation of "effecting a processing operation of a mode to which the operation processing mode has been changed over by the change-over means, after finishing writing-in of the image data."

With respect to the Examiner's rejection of applicant's independent claims 1, 9 and 17 under 35 U.S.C. § 102(e) as being anticipated by Fellegara et al., the Examiner argues that Fellegara et al. discloses, in Fig. 6, an image pickup apparatus comprising image pickup means (94); a volatile recording medium for temporarily recording therein the image data picked up by the image pickup means (working memory 124 is used during image data collection and processing; col. 8, lines 35-65); nonvolatile recording medium (flash memory 126 or interface connector 130); and change-over means (image capture mode selector switch 23) for changing over an operation processing mode of the image pickup apparatus (noting that Fellegara et al. teach three image capture modes, a quick review switch and a power down mode in col. 10, lines 19-36, col. 13, lines 18-45; and col. 10 lines 37-58 respectively).

The Examiner further argues that Fellegara et al. teach control means for effecting a processing operation of a mode to which the operation processing mode has been changed over. Particularly, the Examiner notes that Fellegara et al. has different means for storage in each image capture mode. In a digital capture mode, image data is stored on a memory card 130; in a film capture mode, image data is stored on film or nonvolatile memory 126; and in a hybrid capture mode, image data is stored on a memory card or on film. Moreover, the Examiner argues, since processing of a working image varies based on the type of image capture mode selected, changing from one capture mode to another would require the image data stored in the

temporary storage medium to be recorded in its respective storage means before the mode has been changed over. (Col. 11, line 61 to col. 13, line 17.) Applicant respectfully disagrees.

Applicant's claims 1, 9 and 17 have been amended to clarify the feature of applicant's invention. Claims 1, 9 and 17, as amended, are directed to an image pickup apparatus and a method and storage medium for controlling an image pickup apparatus, in which image data picked up by the image pickup means is temporarily recorded in a volatile recording medium, image data recorded in the volatile recording medium is recorded in a nonvolatile recording medium, change-over means changes over an operation mode of the image pickup apparatus, and control means which, if the operation mode has been changed over before finishing writing-in of image data recorded in said volatile recording medium into said nonvolatile recording medium, executes a process according to the operation mode changed over after finishing writing-in of the image data into the nonvolatile recording medium. With respect to applicant's claims, as amended, the Examiner's rejections are respectfully traversed.

As noted by the Examiner, the Fellegara et al. patent does teach an image pickup apparatus including image pickup means 94, volatile recording medium 124 and nonvolatile recording medium 126 or 130. Applicant also submits that Fellegara et al. teach three image capture modes, a quick review switch and power down mode, as specifically pointed out by the Examiner. However, applicant disagrees with the Examiner that Fellegara et al. teach control means according to applicant's invention.

In particular, applicant submits that Fellegara et al. does not teach that changing from one image capture mode to the next mode would require the image data stored in the temporary storage medium to be recorded in its respective storage means before the mode has been changed over. According to applicant's invention, if an operation mode has changed to the

next mode before finishing writing in of image data recorded in said volatile recording medium into the nonvolatile recording medium, the control means executes a process according to the operation mode changed over by the change-over means, after finishing writing in of image data into the nonvolatile recording medium. In other words, execution of the process according to the operation mode is suspended until the image data recorded in the volatile recording medium is written on the nonvolatile recording medium. The apparatus taught by the applicant therefore enables prioritizing the task of writing image data into the nonvolatile recording medium. There is simply no teaching in Fellegara et al. of this feature.

For example, Fellegara et al. teach that in a film capture mode, the captured digital image corresponds to a display image. When the mode is switched to an editing mode, microcontroller 120 generates a lower resolution image in order to store the last captured image in the memory card for display. (Col. 12, lines 21 to 53.) Fellegara et al. is completely silent, however, as to how the image is processed if a mode change-over instruction, e.g., from a film capture mode to the digital capture mode, is made during processing of this task of generating a lower resolution image and storing the image into the memory card, which presumably takes a certain time to complete. In this example, Fellegara et al. does not teach or suggest that processing according to an editing mode is executed after the image data is stored into the memory card. It is therefore submitted that Fellegara et al. does not teach the invention of applicant's amended claims, wherein control means executes a process according to the operation mode changed over by the change-over means, after finishing writing in of image data into the nonvolatile recording medium.

Applicant further submits that the above arguments are presented not to merely repeat what applicants have argued in previous responses, but to attempt to further clarify the specific


features of applicant's invention, which is believed to patentably distinguish over the cited references.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested. If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 790-9273.

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Respectfully submitted,

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